

REMARKS

The present application includes pending claims 1-38, all of which have been rejected. Claims 1, 11, 16, 24 and 33 have been amended.

The specification was objected to because the Abstract was apparently too long. The Applicants have amended the Abstract accordingly. No new matter has been added.

Claims 1, 3-15 and 24-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,813,775 ("Finseth") in view of U.S. 6,774,926 ("Ellis"). Claims 16-23 and 33-38 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 7,065,778 ("Lu") in view of Finseth and Ellis. Claim 2 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Finseth in view of Ellis and Lu. The Applicants respectfully traverse these rejections for at least the reasons previously discussed during prosecution and the following:

I. The Proposed Combination Of Finseth and Ellis Does Not Render Independent Claim 1 Unpatentable

Claim 1 has been clarified to recite, in part, "receiving a media request from the first user via a communication network, wherein the media request relates to media to be sent directly via the communication network from the second user to the first user; processing the media request from the first user via the communication network, the requested media having a pre-defined set of characteristics; notifying the second user, via the communication network, of the consumption of the requested media by the first user, if the pre-defined set of characteristics for the requested media matches the at least one user-selected characteristic; and refraining from notifying the second user, via the communication network, of the consumption of the requested media by the first user, if the pre-defined set of characteristics for the requested media does not match the at least one user-selected characteristic."

A. Receiving A Media Request From The First User Via A Communication Network, Wherein The Media Request Relates To Media To be Sent Directly From The Second User To The First User

The Office Action indicates that Finseth “does not clearly teach receiving a media request from the first user via a communication network, wherein the media request relates to media of the second user.” *See* December 31, 2008 Office Action at page 5. In an attempt to overcome this deficiency the Office Action relies on Ellis. *See id.*

Ellis discloses a “system for distributing personal television channel programs from individual contributors to viewers over a communications network.” *See id.* at column 1, lines 25-30. “Personal television programming may be distributed in real time or using a server so that the programming may be distributed on demand.” *See id.* at column 1, lines 30-32.

In Ellis an “individual at home or at another suitable location may use user equipment 34 to create content for a personal television program or channel.” *See id.* at column 3, lines 19-21.

However, another user does not request content directly from that individual. Instead, Ellis discloses the following:

As shown in FIG. 8, a contributor at user television equipment 122 may distribute personal television channel programming to viewers at user television equipment 124 that is connected to the same cable system headend 126. With this type of system, contributors may upload videos to a server such as server 128. Server 128 may be used to cache or otherwise store the videos. Stored videos may be retrieved by viewers on demand. Videos may also be distributed from the contributor to the viewers in real time.

See id. at column 8, lines 17-26. Notably, Ellis does not describe, teach or suggest that videos from the contributor that are distributed in “real time” are requested from the viewers. Instead, these videos are merely broadcast at set times. The viewers are able to tune into these videos

based on channel guides that list broadcast times. As such, the viewers are not directly requesting video from the contributor in this scenario.

As for the “video on demand,” Figure 8 of Ellis clearly shows that the cable system headend 126 includes the server 128. *See id.* at Figure 8. The server is separate and distinct from the contributor and the viewers. *See id.*

[A] contributor may transmit a video for a personal television channel to server 128 using a cable modem and a communications scheme such as an Internet-based scheme. The server may store the video until requested or until a scheduled broadcast time.

See id. at column 8, lines 27-32. Thus, the video is stored at the server, which is separate and distinct from the contributor. The stored video may be requested from the server, but not the contributor. *See also id.* at column 10, lines 18-20 (“Pressing a remote control OK key may direct the program guide to request the desired program from the server or other equipment on which the program is stored”).

In general, Ellis does not describe, teach or suggest that a viewer requests content directly from a contributor. Further, as noted above, the Office Action acknowledges that Finseth “does not clearly teach receiving a media request from the first user via a communication network, wherein the media request relates to media of the second user.” *See* December 31, 2008 Office Action at page 5. The Applicants respectfully submit that neither Finseth, nor Ellis, alone or in combination with one another, describes, teaches or suggests “receiving a media request from the first user via a communication network, wherein the media request relates to media to be sent directly via the communication network from the second user to the first user,” as recited in claim 1. Thus, for at least these reasons, the proposed combination does not render claims 1-10 unpatentable.

B. Notification Of Consumption Based On A Match

With the exception of “receiving a media request from the first user via a communication network, wherein the media request relates to media to be sent directly via the communication network from the second user to the first user,” the Office Action seemingly asserts that Finseth discloses the limitations of claim 1. *See* December 31, 2008 Office Action a pages 4-5.

Finseth “relates to systems and methods for presenting media programs to subscribing viewers, and in particular to a system and method for sharing viewer preferences among viewers.” Finseth at column 1, lines 16-19. Finseth discloses a method that “transmit[s] at least a portion of the first viewer preference information to a second user for storage in a memory of a second user device.” *See id.*

In Finseth, one subscriber decides to share information with another subscriber. After the subscriber decides, without any prompting from the other, to share that information, Finseth discloses that the other may choose to receive portions of the information that the other decided to share. *See* Finseth, *e.g.*, at column 17, lines 29-44.

In particular, Finseth discloses the following:

The method comprises the steps of storing first user viewer preference information characterizing media programs selected by the first user in a memory of a first user device, and transmitting at least a portion of the first viewer preference information to a second user for storage in a memory in a second user device.

Id. at column 2, .lines 22-33. Further,

When the user wants to share viewing preference information, the user initiates the process using, for example, remote control 86. To share viewing preference information a user must first select with whom to share the information, which is represented by box 132.

Id. at column 12, lines 23-28 (emphasis added). *See also id.* at column 13, lines 35-48 (“When a user decides to share viewing information with a group, the user initiates a multi-step process...”).

Finseth is clear that the sharing process is initiated by a sharer selecting another subscriber(s) with whom to share the viewer preference information. The process does not begin, however, with the recipient requesting anything from the sharer.

The Applicants respectfully submit that, contrary to the assertion in the Office Action, Finseth does not describe, teach or suggest “notifying the second user, via the communication network, of the consumption of the requested media by the first user, if the pre-defined set of characteristics for the requested media matches the at least one user-selected characteristic,” as recited in claim 1.

The Office Action cites **Finseth at column 12, lines 30-45 and column 15, lines 52-65** as disclosing “notifying the at least a second user, via the communication network, of the consumption of the requested media by the first user, if the pre-defined set of characteristics for the requested media matches the at least one user-selected characteristic [associated with media]; and refraining from notifying the at least a second user, via the communication network, of the consumption of the requested media by the first user, if the pre-defined set of characteristics for the requested media does not match the at least one user-selected characteristic [associated with media].” *See* December 31, 2008 Office Action at pages 4-5. In order to demonstrate that Finseth does not describe, teach or suggest these limitations, the Applicants will address each of these cited portions.

First, **Finseth at column 12, lines 30-45** states the following:

A user must also select what information to share with the selected recipient, as represented by box 134. A user may choose to share the entire contents of his/her user-specific sub-history table with the selected recipient. A user may choose to tell the recipient only about a specific television program. Using remote control 86 (FIG. 3) or another input device such as an infrared keyboard, a user can also share specific comments or reviews regarding a television program. However, for privacy reasons, a user may wish to send only summary or depersonalized information regarding his or her viewing preferences where only certain attributes from his or her preference history are shared with others.

Receiver 64 then transmits at least a portion or a processed version of the selected viewing preference information to the selected recipient (e.g. second user) via telephone lines or the Internet, which is represented in box 136.

Finseth at column 12, lines 30-45. This portion of Finseth states that a “user may choose to share the entire contents of his/her **user-specific sub-history table.**” *See id.* (emphasis added). The user-specific sub-history table stores “attributes of the television program viewed by a user.” *See id.* at column 12, lines 20-23.

These cited portions of Finseth indicate that the user selects which information to send, but not that another subscriber actually requests the information. Notably, the cited portion of Finseth above discloses that a user **must** select which information to share with a recipient. Once selected, that information is then shared with the recipient. However, this cited portion of Finseth does not describe, teach or suggest that such information is shared only if pre-defined characteristics of media match user-selected characteristics. That is, this portion of Finseth does not describe, teach or suggest “notifying the at least a second user, via the communication network, of the consumption of the requested media by the first user, if the **pre-defined set of characteristics for the requested media matches the at least one user-selected characteristic [associated with media]**; and refraining from notifying the at least a second user, via the

communication network, of the consumption of the requested media by the first user, if the **pre-defined set of characteristics for the requested media does not match the at least one user-selected characteristic [associated with media]**,” as recited in claim 1. Instead, in Finseth, as noted above, a user selects information to share, and then that information is sent to the recipient **without any determination as to whether that information matches or does not match another set of information.**

Next, **Finseth at column 15, lines 52-65** recites the following:

The "How Much Detail?" category 198 allows a user to control the amount of viewing preference information to share with the destination. For privacy reasons, a user may not wish to share the entire contents of his/her user-specific sub-history table. Instead, a user may only wish to share a summary of the attributes contained therein. A summary would not include the titles of the viewed television programs or the channel definitions of the channels where the program was shown, but would include certain attributes of the viewed programs so that only a user's general viewing preferences would be communicated to others. A user could further restrict the amount of information communicated to others by specifically selecting contents of its sub-history table to be sent.

See id. at column 15, lines 52-65. This portion of Finseth merely discloses that a user can control the amount of preference information to share with others. That is, the user may share a sub-set of the information within his/her sub-history table. Similar to the other cited portion of Finseth, though, this portion does not describe, teach or suggest “notifying the at least a second user, via the communication network, of the consumption of the requested media by the first user, if the **pre-defined set of characteristics for the requested media matches the at least one user-selected characteristic [associated with media]**; and refraining from notifying the at least a second user, via the communication network, of the consumption of the requested media by the first user, if the **pre-defined set of characteristics for the requested media does not**

match the at least one user-selected characteristic [associated with media],” as recited in claim 1.

As explained above, the portions of Finseth relied on by the Office Action do not describe, teach or suggest that delivery of viewing preference information from a first user to a second user **is predicated on a match of any kind**. Instead, they disclose that information is shared based on what a user actually selects to send, as opposed to any kind of match. The portions of Finseth that the Office Action cites disclose that a user **must select which information to share with a recipient**. See Finseth at column 12, lines 30-31 (“A user **must** select what information to share with the selected recipient”). **Once selected** (as opposed to a determination of any “match”), that information is then shared with the recipient. Thus, Finseth discloses that information is shared based on what the user selects as the information to share with another. Once the user affirmatively selects the information to share, the information is then shared with the recipient. In this way, a user can control the amount of preference information to share with others. See Finseth at column 15, lines 52-65. Again, Finseth discloses that information is sent based on what a user selects, but not because of a match, in general, and certainly not because of “**pre-defined set of characteristics for the requested media matches the at least one user-selected characteristic [associated with media],**” in particular.

Thus, for at least these reasons, the Applicants respectfully request reconsideration of the rejection of claim 1 as being unpatentable over Finseth in view of Ellis. The Applicants respectfully submit that the proposed combination of Finseth and Ellis does not render claims 1-9 unpatentable.

II. The Proposed Combination Of Finseth and Ellis Does Not Render Independent Claims 11 and 24 Unpatentable

Claim 11 recites, in part, “processing a **direct request** for media of another user, from the user, the media having a pre-defined set of characteristics; sending a notification via a communication network if the pre-defined set of characteristics for the requested media matches the at least one media characteristic; and refraining from sending a notification if the pre-defined set of characteristics for the requested media does not match the at least one media characteristic.” Independent claim 24 recites similar limitations. The Applicants respectfully submit that the proposed combination of Finseth and Ellis does not render claims 11, 24 or the claims that depend therefrom unpatentable for at least the reasons discussed above with respect to claim 1.

III. The Proposed Combination Of Lu, Finseth And Ellis Does Not Render Independent Claims 16 And 33 Unpatentable

Claim 16 recites, in part, “server software that receives a direct request, from the first user for media from the second user, that identifies at least the associated first network address and media having at least one pre-defined characteristic, and that notifies, via a communication network, the associated second network address if the at least one media characteristic matches the at least one pre-defined characteristic.” Independent claim 33 recites similar limitations. The proposed combination does not describe, teach or suggest a first user requesting media directly from a second user, as explained above. For at least this reason, the Applicants respectfully submit that the proposed combination of Lu, Finseth and Ellis does not render claims 16-23 and 33-38 unpatentable.

IV. Conclusion

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully request reconsideration of the claim rejections for at least the reasons discussed above. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

The Commissioner is authorized to charge any necessary fees, including the \$130 fee for the 1-month extension, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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